

RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

AGRICULTURE

(a)

DIVISION OF ANIMAL HEALTH

Laboratory Services

Proposed Readoption with Amendments: N.J.A.C. 2:10

Proposed New Rule: N.J.A.C. 2:10-2.4

Authorized By: State Board of Agriculture and Edward D. Wengryn,
Secretary, Department of Agriculture.

Authority: N.J.S.A. 4:5-2.1.

Calendar Reference: See Summary below for explanation of
exception to calendar requirement.

Proposal Number: PRN 2024-102.

Submit written comments by November 2, 2024, to:

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The agency proposal follows:

Summary

N.J.S.A. 4:5-2.1 authorizes the New Jersey Department of Agriculture (“Department” or “NJDA”) to adopt rules and regulations to charge reasonable fees to defray the cost of animal disease diagnostic testing services and necessary animal health tests. The rules at N.J.A.C. 2:10, Laboratory Services, were scheduled to expire on September 28, 2024. As the Department filed this notice of rules proposed for re-adoption with amendments and a new rule prior to that date, the expiration date was extended 180 days to March 27, 2025, pursuant to N.J.S.A. 52:14B-5.1.c(2). The proposed re-adoption of N.J.A.C. 2:10 with amendments and a new rule is necessary to enable the Department to continue to provide the New Jersey agricultural community and veterinarians with animal disease diagnostic testing services and to defray the costs incurred by the Department in providing those services. The collection of reasonable fees for animal disease diagnostic and testing services by the Department allows the Department to recover the costs incurred for materials, equipment, test kits, reagents, and associated personnel expenses for these testing services.

The Department moved into a state-of-the-art laboratory facility in April 2012, which it shares with the Department of Health, and in which services are also provided for the Department of Environmental

Protection. This facility, known as the Public Health and Environmental and Agricultural Laboratory (PHEAL), makes it possible for the Department to continue to provide the animal diagnostic services necessary to keep the animal agriculture in New Jersey safe from disease. Due to the new state-of-the-art capabilities, the Department now has the ability to offer many additional animal diagnostic services and to perform more complicated tests on animals. The proximity of the laboratory within New Jersey benefits livestock producers, large and small animal veterinarians, and animal owners in the region.

The current fee schedule was last updated in 2019, and, since then, new tests and testing procedures have been introduced, and laboratory testing costs and the overall cost of operating the NJDA Animal Health Diagnostic Laboratory (AHDL) have increased due to inflation. Bureau of Labor Statistics’ Consumer Price Index (CPI) information shows that the cost of goods and services in the national economy has increased by nearly 23 percent since 2019, which has directly affected the amounts that AHDL must pay for laboratory supplies, including test tubes, slides, swabs, reagents, etc. In FY 2023, AHDL experienced a shortfall of approximately \$43,000 between the revenues generated from its lab fees and its expenditures to purchase lab supplies. In addition, beginning in FY 2025, AHDL anticipates that it will experience a \$40,000 reduction in its annual lab fee revenues due to recently announced USDA plans to substantially reduce its own expenditures on avian influenza tests. The USDA is a major client of AHDL for avian influenza testing. While the proposed fee increases in this rulemaking are estimated to generate approximately \$60,000 to \$70,000 in additional revenues, the foregoing data shows that the proposed fee increases are not likely to defray all of AHDL’s ongoing costs to purchase the supplies that are necessary to operate the laboratory. Moreover, those numbers do not include the costs to purchase replacement laboratory equipment over time (capital equipment expenditures), which provides further justification for the proposed fee increases. The fee increases in this rulemaking are reasonable and necessary to ensure that AHDL can continue to provide all of its various animal health diagnostic and testing services, including those that might be utilized less often but are still necessary for the lab to conduct its operations and serve veterinarians and animal owners across New Jersey.

This rulemaking provides for increases to many user fees for veterinary diagnostic services and necessary animal health tests that better reflect current laboratory operating costs. In addition, some new user fees have also been added to cover the costs of additional veterinary diagnostic services and to allow the Department to incorporate advanced techniques employing different reagents to improve the accuracy of existing tests. In some cases, no increase in fees is proposed, despite cost increases, to encourage the agriculture community and other members of the public to make use of the available services offered by the Department. In addition, a new 20 percent discount is proposed for the fees applicable to tests that are performed in groups, which will offer diagnostic and economic benefits by providing a lower cost option when certain diagnostic tests

will provide better and more appropriate diagnostic information when performed together. This will replace the current use of fixed testing batteries and panels. The rules proposed for readoption with amendments and a new rule organize user fees by type of service, and the rules proposed for readoption with amendments and a new rule allow for the testing of new diseases as they emerge.

N.J.A.C. 2:10-1.1 defines the terms used in the chapter. N.J.A.C. 2:10-1.2 sets forth the fee schedule for veterinary diagnostic services. In addition to fees for established bacteriology isolation and identification tests, virology identification tests, serology testing, pathology services, and molecular diagnostic services, in the case of the introduction of a new test format, charges are determined by using actual time, labor, administrative, and material costs. N.J.A.C. 2:10-2.2 sets forth rules regarding the Department's long-standing practice not to release animal remains, which serves to protect the public from possible transmission of zoonotic diseases that may be contained in animal remains. N.J.A.C. 2:10-2.3 sets forth rules governing the confidentiality of laboratory reports, which protect members of the public in their privacy rights when submitting livestock or pets for necropsies and other tests.

In accordance with N.J.S.A. 4:5-2.2, all laboratory fees are collected and held separate and apart from all other funds of the State in a non-lapsing revolving fund for annual appropriation to ensure the provision of continuous support for the needed laboratory services.

The Department proposes to amend N.J.A.C. 2:10-1.1 to add some new definitions and to change an existing definition for purposes of clarity. A definition of the Certificate of Veterinary Inspection (CVI), which is prepared and relied upon for disease control and tracking purposes in connection with the interstate movement of livestock and other animals, is proposed because the CVI is regarded as an animal health test that is deemed necessary by the State Board of Agriculture. The proposed definition also recognizes that CVIs may be submitted to the Department in either paper or electronic format. A definition for "disposal fee" is proposed in order to make clear that the disposal of animal remains is a service that is provided by the Department as part of, and in conjunction with, necropsy services that are provided by the Department, not as a service that is provided separate or apart from the performance of such necropsy services by the Department. The definition of "forensic necropsy" is clarified to indicate that a necropsy with legal implications also includes matters involving insurance claims. A definition of "NJCHAP," which is the New Jersey Cattle Health Assurance Program, has been added because that term is now used elsewhere in the chapter; likewise, a definition of "'laboratory' or 'AHDL'" has also been added because that term is used elsewhere in the chapter.

Increased fees are proposed for a number of tests pertaining to bacterial isolation and identification at N.J.A.C. 2:10-1.2(b). Specifically, increased fees are proposed for aerobic culture and identification, anaerobic culture and identification, fungal culture, mycoplasma culture, sensitivities, leptospira microagglutination titer, caseous lymphadenitis, and bacterial isolate identification. These fee changes are proposed to support technique changes requiring sophisticated equipment for increased accuracy and due to increases in the cost of testing supplies. In addition, Johne's culturing tests have been divided into types, one that is part of the New Jersey Cattle Health Assurance Program (NJCHAP), and the other that is not part of the New Jersey Cattle Health Assurance Program (non-NJCHAP), with the former having a lower testing fee because Federal funding is available to cover a portion of the costs for NJCHAP testing.

At N.J.A.C. 2:10-1.2(c), fees for the virology identification tests will stay the same for the HI serum titer and the HI serum screen, with increased fees proposed for all other virology identification testing. Those fee increases are proposed due to the increased cost of supplies.

The Department proposes to increase the fees for some of the serology tests at N.J.A.C. 2:10-1.2(d) due to increases in the cost of supplies (for example, for "Coggins" tests and for ELISA testing), as well as loss of Federal funding (for example, agglutination tests). The fee for the Johne's ELISA will not be changed, and remains low, because it is part of a program to encourage producers to participate in this program.

Extensive changes are proposed to the fees and to the structure of N.J.A.C. 2:10-1.2(e), which covers pathology services provided by the Animal Health Diagnostic Laboratory (AHDL), including necropsies.

Eight new tests are proposed at subsection (e) to serve animal owners, including canine/feline necropsies and equine necropsies. The pathology services set forth at subsection (e) are provided for all animal owners, including animals that are not domestic livestock. Such animals include household pets, zoo animals, exotic animals, and wildlife. AHDL is able to make services available to the owners of animals that are not domestic livestock due to the expanded capabilities of the laboratory, and specialty services (such as orthopedic examination) are being provided to the regional community. Non-livestock necropsies are separated from domestic livestock necropsies due to utilization of Federal funding through the United States Department of Agriculture to partially subsidize domestic livestock necropsies. Necropsy services are differentiated according to weight of animals, and some changes to the weight categories for fees applicable to necropsies and the disposal of remains is proposed. The resources (time and material) needed to perform necropsies are proportional to weight of animals, with larger and heavier animals requiring more resources. Additional tissue sample fees are proposed for histology (necropsy in a bottle) to encourage tissue submission, which is more efficient and cost effective than the transfer of the entire animal for necropsy. Increases in pathology fees are proposed due to increases in the cost of supplies, the cost of disposal services, and costs related to field transport and higher cost replacement for required disposable field gear. Disposal fees are proposed to be broken down further by weight to help cover the costs associated with licensed pick-up services that the Department must engage to dispose of animal carcasses after a necropsy.

With the exception of contagious equine metritis (CEM) procedures, all of the testing batteries and panels currently set forth at N.J.A.C. 2:10-1.2(f) are proposed to be deleted because test techniques and the composition of the panels are subject to change over time, depending on client preferences, prevalence of diseases, and technological advances. Instead, a 20 percent discount is proposed on each in-house component test that is part of the battery/panel composed by laboratory diagnosticians, which will serve to facilitate the most economical and accurate diagnosis of clinical conditions by grouping tests. If done individually, the total cost to perform these tests would be more, and the discount is justified by the lesser time and materials involved when testing is grouped in a diagnostically appropriate manner. The cost of tests done by an outside laboratory as part of battery/panel will be passed on to the submitter pursuant to N.J.A.C. 2:10-1.2(h). Techniques and composition of the CEM panel procedures are prescribed by the United States Department of Agriculture and only change if there is a change in Federal regulatory requirements. The small increases in the fees for CEM procedures are proposed due to the increased cost in performing those services.

The Department also proposes fee increases for all molecular diagnostic services at N.J.A.C. 2:10-1.2(g) due to the increased cost of supplies. Molecular services benefit all owners of animals, including owners of non-livestock.

Two minor amendments are proposed at N.J.A.C. 2:10-1.2(h). First, the word "temporarily" is proposed for deletion from N.J.A.C. 2:10-1.2(h) in order to allow for the referring of services to other laboratories whenever the services are unavailable through the Department. The other proposed amendment allows such external referrals to be made upon "documented" consent, rather than "written" consent, in order to facilitate the referral process and not mire that process in paperwork that requesting veterinarians often find they do not have the time to attend to. Fees will continue to be charged at the actual cost for the test, plus any shipping and handling charges that are required by the external laboratory.

Proposed new N.J.A.C. 2:10-1.2(i) identifies the Department's processing of Certificates of Veterinary Inspection (CVIs), whether issued in paper format or in electronic format, and the Department's processing of EIA/Coggins certification for Coggins tests not performed at AHDL, as animal health tests deemed necessary by the State Board of Agriculture for which it is now proposed that a fee will be charged. The nationwide system of CVIs that accompany the interstate movement of animals is designed to ensure that animals being moved interstate are healthy animals based on appropriate veterinary examination and testing. By regulation, the State Board of Agriculture already recognizes the importance and necessity of the animal health certification that is documented by CVIs; see, for example, N.J.A.C. 2:3-1.2, 1.4, and 1.5; and

Department processing of those forms to ensure their reliability and authenticity is essential to the proper functioning of that nationwide system designed to protect against the interstate transmission of animal diseases. Likewise, by regulation, the State Board of Agriculture already recognizes the necessity and importance of the certification of Coggins test results; see, for example, N.J.A.C. 2:5-4.3 and 4.4; see also N.J.A.C. 2:3-6.2; and Department processing of the certification of Coggins tests not performed at AHDL to ensure their reliability and authenticity is a critical part of the Department's efforts to prevent the transmission of Equine Infectious Anemia. The proposed new regulation establishes these fees in order to defray the costs involved.

N.J.A.C. 2:10-2.3 provides for the confidentiality of complete (final) and intermediate (interim) lab reports, including necropsy reports. The Department proposes technical amendments, so that its preliminary wording better tracks the language at N.J.S.A. 47:1A-9, the provision of the Open Public Records Act on which that preliminary wording is based. The words proposed for addition to N.J.A.C. 2:10-2.3 were inadvertently omitted when this provision was adopted in 2019.

Finally, proposed new N.J.A.C. 2:10-2.4 sets forth existing Department practice that unpaid balances will be sent to collection pursuant to New Jersey Department of the Treasury rules or circular, and it further provides that first-time clients of AHDL may be required to pay a deposit equal to the expected cost of the testing that they have requested. Delinquencies in the payment of lab fees have tended to be most prevalent among first-time users (who often do not expect to again use AHDL for testing services). Allowing AHDL to require the payment of a deposit for diagnostic and testing services in those circumstances is expected to reduce unpaid balances, avoid time consuming collection efforts, and increase the overall collection of lab fees, thereby helping with the long-term sustainability of AHDL and its services to the public.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The prevention and control of disease by State regulatory programs is necessary to prevent and/or eliminate disease from the New Jersey livestock population, protect the economic viability of the industry, as well as the health of the livestock, and other animals potentially susceptible to these diseases, including humans. Limits on Federal and State funds has resulted in user fees being collected for laboratory services by the United States Department of Agriculture, the National Veterinary Services Laboratory (NVSL), and by state laboratories across the United States. As the Department is now charged for tests and materials previously supplied free of charge by the NVSL, the Department must recover some of these expenses in order to maintain operation. Due to the lack of State appropriations and increasing expenses, the Department has found it necessary to collect user fees for Department laboratory expenses incurred for livestock (and other animal) disease diagnostic and testing services. With continued implementation of these user fees, the agriculture community and veterinarians who elect to use the Department laboratory services for routine diagnostic tests or voluntary control programs will be affected. Without implementation of these fees for service, the Department will no longer be able to provide routine or elective diagnostic testing and services for the livestock. Users of these services will then have to find alternative laboratory services, all of which will include fees for service charges.

Livestock owners and veterinarians that use diagnostic laboratory services other than the Department currently pays user fees. The proposed amendments involving user fees by the Department are not expected to cause a negative reaction by current laboratory users. Livestock owners and veterinarians should be aware that costs for laboratory services have increased in the last five years and that fees for such services are standard in the animal health industry.

The proposed amendments allow for the collection of reasonable user fees to offset Department expenses, which, in turn, allows the Department to continue to offer animal diagnostic testing services. Therefore, the proposed amendments will have a positive social impact on the citizens of the State of New Jersey.

Economic Impact

New Jersey livestock owners who use the services of the Department's AHDL will be impacted by the proposed fee increases. However, most of the services are entirely optional, and in no case, is anyone required to use AHDL for their testing needs as other animal disease testing laboratories are available, including private-owned and university-sponsored laboratories, as well as those run by other, nearby states. The proposed fee increases have been carefully considered to keep the costs as minimal as possible. In addition, the proposed amendments provide a lower cost option when certain diagnostic tests are organized into a group related to the type of service.

The proposed fees reflect changes in the cost of supplies, as well as the cost of the professional performing the service. While the majority of testing fees have increased as a result of increased costs, some of the fees have not changed. As a result of concerns about emerging diseases and bioterrorism, the lab fees include the costs of field pathology investigations, as well as small animal (pets) pathology services. Some of this testing will be subsidized by Federal agencies. Regulatory tests mandated by the Department for diagnosing or controlling reportable diseases in New Jersey livestock will be supported through the State appropriation system when available. The Department anticipates increased utilization of laboratory services by the veterinary community and law enforcement community for humane investigations, and, therefore, services and fees not previously included in the fee schedule have been added.

Federal Standard Statement

A Federal standards analysis is not required because there are no Federal standards or requirements applicable that govern the operation of animal health fee for service diagnostic laboratories.

Jobs Impact

It is anticipated that the rules proposed for readoption with amendments and a new rule will not result in the generation or loss of jobs in the State.

Agriculture Industry Impact

The rules proposed for readoption with amendments and a new rule will have a positive impact on New Jersey livestock owners by allowing the continued operation of the AHDL for the purposes of elective and voluntary disease control program diagnostics. Without the continued and updated implementation of this fee for service regulatory scheme, the Department would lack the funding needed to continue to provide these services to livestock owners and veterinarians in the State. Even with the fee increases proposed by the Department, the livestock industry is ensured of continued diagnostic services at or below the fees charged by other, comparable diagnostic laboratories.

Regulatory Flexibility Analysis

To the extent livestock owners are small businesses within the meaning of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the rules proposed for readoption with amendments and a new rule impose costs upon those livestock owners who choose to avail themselves of the services of the AHDL. Livestock owners are required to pay fees for the services in accordance with the proposed fee schedule. Livestock owners continue to have the option to utilize the services of private laboratories.

The proposed fees are necessary for the Department to recover its expenses and to continue to operate its animal health diagnostic laboratory within the confines of its existing budget. The Department has made no provision for small businesses in setting these fees because it has no funding with which to underwrite the cost of providing these laboratory services to small businesses at a reduced or no charge.

No reporting, recordkeeping, or compliance requirements are imposed on small businesses pursuant to the rules proposed for readoption with amendments and a new rule. To the extent small businesses choose to use laboratory services providers other than the AHDL, those livestock owners will incur the professional service fees of those laboratories. No professionals are required to be retained to comply with the rules proposed for readoption with amendments and a new rule. No capital expenditures are required for compliance.

Housing Affordability Impact Analysis

The Department has found that there is an extreme unlikelihood that the rules proposed for readoption with amendments and a new rule would change the average costs associated with housing or have any impact on housing affordability because the proposed rulemaking pertains to animal health diagnostic laboratory fees.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments and new rule will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey because the rules proposed for readoption with amendments and new rule pertain to animal health diagnostic laboratory fees.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 2:10.

Full text of the proposed amendments and new rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. FEE SCHEDULE

2:10-1.1 Definitions

The following words and terms, as used in this chapter, shall have the following meanings. Words of art undefined in the following paragraphs shall have the meaning attributed to them by trade usage or general usage as reflected by definition in a standard dictionary, such as Webster’s.

“Certificate of Veterinary Inspection” means an official New Jersey certificate issued by an accredited New Jersey veterinarian indicating that an animal present in New Jersey has been examined and otherwise tested for disease and attesting to the good health of said animal. Such certificates are prepared by New Jersey veterinarians for submission to, and review by, the Division of Animal Health in connection with the export of animals from New Jersey. Such certificates may be submitted to the Division of Animal Health, or in electronic format through vendors of electronic Certificates of Veterinary Inspection (eCVI) who have entered into an agreement with the Department to submit such certificates electronically in the manner and pursuant to the terms and conditions set forth in such agreement during the term of such agreement.

“Disposal fee” means the fee charged to dispose of the remains of an animal after a necropsy has been performed. NJDA AHDL does not accept animals for disposal separate or apart from the performance of necropsy services.

“Forensic necropsy” means a necropsy procedure that attempts to establish the manner of death, any contributory causes, and if possible, the time of death. This type of necropsy is reserved for investigation of animal-related crimes or other situations that have legal implications (including matters involving insurance claims) and goes beyond standard necropsy in its objectives and relevance.

“Laboratory” or “AHDL” means the New Jersey Department of Agriculture, Animal Health Diagnostic Laboratory.

“NJCHAP” means the New Jersey Cattle Health Assurance Program. As used in this chapter, “NJCHAP” shall also include the New Jersey Sheep and Goat Health Assurance Program.

2:10-1.2 Fees

(a) For all veterinary diagnostic services for which there is no flat rate user fee listed—for instance, due to the introduction of a new test format—the hourly rate user fee will be calculated for the actual time, labor, administrative, and material costs required to provide the service.

(b) Fees for bacteriology isolation and identification tests are as follows:

<u>Technique</u>	<u>Charge</u>
Aerobic culture and identification	[\$20.00] \$30.00
Anaerobic culture and identification	[\$30.00] \$40.00
...	
Fungal culture	[\$20.00] \$30.00
...	
Mycoplasma culture	[\$18.00] \$25.00
Sensitivities (Kirby Bauer).....	[\$15.00] \$20.00
Sensitivities (MICs)	[\$20.00] \$30.00
Johne’s culturing per animal (NJCHAP).....	\$20.00
Johne’s culturing per animal (non-NJCHAP) ...	\$30.00
Leptospira microagglutination titer (MAT).....	[\$15.00] \$25.00
Caseous lymphadenitis SHI	[\$10.00] \$15.00
Bacterial isolate identification.....	[\$12.00] \$15.00

(c) Fees for virology identification tests are as follows:

<u>Technique</u>	<u>Charge</u>
...	
Serum neutralization	[\$15.00] \$20.00
Direct fluorescent antibody (for agent)	[\$15.00] \$25.00
Indirect fluorescent antibody (for antibody).....	[\$15.00] \$20.00
IgM antibody capture ELISA	[\$20.00] \$25.00
IgG antibody capture ELISA.....	[\$20.00] \$25.00
Western blot.....	[\$35.00] \$45.00
Virus isolation.....	[\$50.00] \$70.00
Fish virus isolation per cell line	[\$20.00] \$25.00
Fish tissue collection for health inspection per fish.....	[\$2.00] \$3.00

(d) Fees for serology are as follows:

<u>Technique</u>	<u>Charge</u>
...	
AGID EIA (Coggins).....	[\$6.00] \$8.00
...	
ELISA	[\$20.00] \$22.00
Agglutination tests (card, plate, tube, rivanol, microtiter).....	[\$4.00] \$5.00

(e) Fees for pathology are as follows:

<u>Technique</u>	<u>Charge</u>
Ova and parasites, qualitative.....	[\$10.00] \$15.00
Ova and parasites, quantitative.....	[\$15.00] \$20.00
Necropsies for domestic livestock:	
Necropsy small livestock animal (up to 100 lbs)	
May include histopathology, [aerobic] up to two cultures, and fecal exam at discretion of the laboratory.....	[\$70.00] \$100.00

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<u>Technique</u>	<u>Charge</u>
Necropsy large livestock animal (101 to 300 lbs) May include histopathology, [aerobic] up to cultures, and fecal exam at discretion of the laboratory	[\$120.00] \$150.00
Necropsy large livestock animal (greater than 300 lbs) May include histopathology, [aerobic] up to two cultures, and fecal exam at discretion of the laboratory	[\$150.00] \$200.00
Necropsy poultry (up to [five] two birds) May include histopathology, aerobic up to two cultures, and fecal exam at discretion of the laboratory, and includes disposal	[\$61.00] \$75.00
Brain removal head only.....	[\$35.00] \$50.00
Histology ([biopsies or] "necropsy in bottle") up to [three] six tissues/sites	[\$45.00] \$125.00
[Four to 10] More than six tissues/sites	[\$95.00] \$175.00
Histology (biopsies)	
First site	\$75.00
Each additional site	\$20.00
Field necropsy with sample collection.....	[\$55.00/hour] \$75.00/hour
Field sample collection (field courier).....	[\$23.00/hour] \$35.00/hour
[Disposal fees (except poultry):	
Small animal (up to 100 lbs).....	\$25.00
Large animal (up to 300 lbs).....	\$75.00
Large animal (301 to 500 lbs).....	\$100.00
Large animal (501 to 1,000 lbs)	\$250.00
Large animal (over 1000 lbs).....	\$350.00
Disposal of regulated medical waste.....	Actual charge
Disposal only (if necropsy not performed) fee....	\$200.00]
<u>Necropsies for animals that are not domestic livestock</u>	
Necropsy—Avian (pet/exotic/zoo/wildlife) per bird May include histopathology, up to two cultures, and fecal exam at the discretion of the laboratory	\$250.00
Necropsy—Canine and Feline May include histopathology, up to two cultures, and fecal exam at the discretion of the laboratory	\$350.00
Necropsy—Equine, based on animal weight May include histopathology, up to two cultures, and fecal exam at the discretion of the laboratory	
Less than 200 lbs	\$200.00
200-500 lbs	\$250.00
501-800 lbs	\$350.00
More than 800 lbs	\$450.00

<u>Technique</u>	<u>Charge</u>
Necropsy for other non-livestock animals (0 to 50 lbs) May include histopathology, [aerobic] up to two cultures, and fecal exam at discretion of the laboratory.....	[\$150.00] \$200.00
Necropsy for other non-livestock animals (51 to 100 lbs) May include histopathology, [aerobic] up to two cultures, and fecal exam at discretion of the laboratory.....	[\$175.00] \$250.00
Necropsy for other non-livestock animals (101 to 300 lbs) May include histopathology, [aerobic] up to two cultures, and fecal exam at discretion of the laboratory.....	[\$200.00] \$300.00
Necropsy for other non-livestock animals ([greater than 300] 301 to 500 lbs) May include histopathology, [aerobic] up to two cultures, and fecal exam at discretion of the laboratory.....	[\$250.00] \$350.00
Necropsy for other non-livestock animals (greater than 500 lbs) May include histopathology, up to two cultures, and fecal exam at discretion of the laboratory	\$500.00
Necropsy fish ([one to three] per fish) [Includes histopathology] Gross exam	\$50.00
[Necropsy racing and show pigeons gross exam only]	\$50.00]
Spinal cord, or section thereof, removal (< 100 lbs).....	[\$75.00] \$100.00
Spinal cord, or section thereof, removal (>100 lbs)	\$175.00
Case consultation fee (external fee)	[\$55.00/hour] \$75.00/hour
Cosmetic necropsy (pets up to 100 lbs).....	[\$400.00] \$500.00
Disposal fees (except poultry), based on animal weight:	
Up to 50 lbs	\$25.00
50 to 100 lbs	\$50.00
101 to 200 lbs	\$75.00
201 to 300 lbs	\$125.00
301 to 500 lbs	\$175.00
501 to 900 lbs	\$250.00
Over 900 lbs	\$350.00
Disposal of regulated medical waste	Actual charge
Carcass handling and preparation for off-site cremation	\$25.00
Other pathology fees:	
Orthopedic examination	\$150.00
Cytology	[\$35.00] \$60.00
.....	
Slide made, H and E [staining] stained	[\$10.00] \$15.00

(f) Fees for test batteries or syndrome panels are as follows:

[Respiratory, equine (serum).....	\$55.00
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Equine herpes-1 SN	
Equine influenza HI titer	
Equine viral arteritis SN	
Abortion, equine (serum).....	\$40.00
Equine herpes-1 SN	
Equine viral arteritis SN	
Leptospira microagglutination titer MAT	
Abortion, equine (tissue).....	\$80.00
EHV-1 PCR	
Aerobic culture	
Histopathology exam	
Equine diarrhea (feces).....	\$100.00
Aerobic culture	
Anaerobic culture	
Salmonella	
Potomac Horse Fever	
Fecal parasite exam	
Equine respiratory (swab PCR).....	\$80.00
EHV-1	
Influenza A	
Strangles	
Equine neurologic (blood/brain/CSF PCR).....	\$80.00
EHV-1	
Eastern equine encephalomyelitis	
West Nile	
Equine neurologic (serum).....	\$50.00
Eastern equine encephalitis IgM ELISA	
West Nile virus disease IgM ELISA	
Equine herpes-1 SN	
Respiratory, ruminant (serum).....	\$40.00
Infectious bovine rhinotracheitis SN	
Parainfluenza-3 HI	
Bovine viral diarrhea SN	
Abortion, ruminant (serum).....	\$40.00
Bovine viral diarrhea SN	
Infectious bovine rhinotracheitis SN	
Leptospira MAT	
Brucellosis (various official tests needed).....	No charge
Equine Fever of unknown origin with lameness and swelling (serum).....	\$60.00
Equine viral arteritis SN	
Lyme disease ELISA and western blot	
Ovine and caprine diarrhea (feces).....	\$60.00
Johnes PCR	
Salmonella culture	
Fecal parasite examination	
Ovine and caprine herd health (serum).....	\$25.00
Brucellosis	
Caprine arthritis encephalitis	
Johnes	
Caseous lymphadenitis screen	
Dermatology diagnostic (skin, fresh and fixed).....	\$90.00]
Aerobic culture and antibiotic sensitivity	

Histopathology	
Fungal culture	
Contagious equine metritis quarantine procedures	
Quarantine supervision and laboratory testing: [stallion].....	[\$1,600] \$1,650
Quarantine supervision and laboratory testing: [mare].....	[\$650.00] \$675.00

Fees for all other test batteries or syndrome panels will be charged at a discount of 20 percent below the cost that otherwise would be charged on each in-house component test that is part of the battery/panel. The battery/panel shall be composed by laboratory diagnosticians to facilitate the most economical and accurate diagnosis of clinical conditions by grouping tests. Laboratory diagnosticians may compose such panels/batteries, as needed, in response to prevalent disease conditions and/or client requests. Any costs of tests done by an outside laboratory as part of the battery/panel will be passed on to the client/requester pursuant to (h) below.

(g) Fees for molecular diagnostic services are as follows:

PCR (Uniplex: one probe).....	[\$37.00] \$42.00
PCR (Duplex: two probes).....	[\$50.00] \$60.00
PCR (Multiplex: greater than two probes).....	[\$10.00] \$15.00
	per additional probe

(h) Services listed [in] at (b) through (g) above are subject to availability of materials and demand for services. When a service is [temporarily] unavailable, the service may be referred to an external laboratory with notice to the submitter and [written] **documented** consent. Costs will be calculated as the actual laboratory test fee(s) and any shipping and handling.

(i) Fees for other animal disease diagnostic and testing services and other animal health tests deemed necessary by the State Board of Agriculture:

EIA/Coggins processing fee for Coggins not performed at AHDL.....	\$1.00
Certificate of Veterinary Inspection.....	\$2.00

The fee for a Certificate of Veterinary Inspection (CVI) that is provided to a New Jersey veterinarian in paper format is due and payable at the time that the Department issues the blank Certificate of Veterinary Inspection to the veterinarian. Paper format CVIs are issued to veterinarians in booklets of 25. An additional charge for postage will be included in the total amount due when providing CVIs in paper format. The fee for a Certificate of Veterinary Inspection in electronic format is due and payable to the authorized vendor at the time such forms are accessed and submitted through the vendor's website, and authorized vendors shall remit those fees to NJDA pursuant to the terms of their agreement with NJDA.

SUBCHAPTER 2. TERMS OF LABORATORY SERVICES

2:10-2.3 Records designated confidential

In addition to records designated as confidential pursuant to the provisions of the Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 et seq., and any other law, rule, Executive Order of the Governor, resolution of both houses of the Legislature, Rule of Court, or any Federal law or regulation, complete (final) and intermediate (interim) reports, including necropsy reports, shall not be considered government records subject to public access pursuant to OPRA.

2:10-2.4 Collections

Unpaid balances will be sent to collection per applicable New Jersey Department of the Treasury rules or circular. First-time clients may be required to pay a deposit equal to the expected cost of the testing.

CORRECTIONS

(a)

THE COMMISSIONER

Health Services

Proposed Readoption with Amendments: N.J.A.C. 10A:16

Authorized By: Victoria L. Kuhn Esq., Commissioner, Department of Corrections.

Authority: N.J.S.A. 2A:154-3 and 4, 2C:58-15, 30:1B-6, 30:1B-10, 30:4-123.47.c, and 52:17B-169.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2024-099.

Submit written comments by November 2, 2024, to:

Kathleen Cullen
Administrative Rules Unit
New Jersey Department of Corrections
PO Box 863
Trenton, New Jersey 08625-0863
or through email to ARU@doc.nj.gov.

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 10A:16 was scheduled to expire on July 26, 2024. Pursuant to N.J.S.A. 52:14B-5.1.c(2), as the Department of Corrections (“DOC” or “Department”) submitted this notice of proposal to the Office of Administrative Law prior to that date, the chapter expiration date was extended 180 days to January 22, 2025. The Department has reviewed this chapter and, with the exception of the proposed amendments, has determined it to be necessary, reasonable, and proper for the purpose for which it was originally promulgated. The rules are, therefore, proposed for readoption with amendments.

The Department has determined that the comment period for this notice of proposal will be 60 days; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is excepted from the rulemaking calendar requirement.

The Department renamed the Health Services Unit to the Health Compliance Unit on May 1, 2024, and, at this time, proposes to replace the name of the unit so that inmates and the public will have a clear understanding of the unit responsible for health services. As such, the Department proposes to replace “Health Services Unit” and “health service unit” with “Health Compliance Unit” at the following regulations: N.J.A.C. 10A:16-1.3, 3.2(a), 3.4(b) through (f), 3.8(b), 3.10(a) and (b), 3.11(a), 3.13(a)2, 4.2(a) and (b)4 and 5, 4.2(c), 4.4(c) through (f) and (j), 8.5(a), 8.6(a) and (c), and 13.5(f).

This chapter establishes guidelines for various aspects of inmate care, including medical, dental, mental health, and addiction services. It addresses obtaining informed consent for medical procedures, supporting pregnant inmates and their newborns, notifying next of kin in case of critical illness or death, and handling unclaimed inmate bodies. It also covers processes for executive clemency, inmate co-payments for services, donation of biological materials, involuntary psychotropic medications, advance directives, and managing medications. Additionally, it outlines procedures for maintaining inmate records, facilitating medical transfers, and identifying and monitoring inmates who are at risk of suicide.

Subchapter 1, General Provisions, sets forth rules for definitions, medical co-payments, and quality assurance among other things.

Subchapter 2, Medical Services, sets forth rules, but is not limited to, for medical services, medical emergencies, medical facilities, and equipment reportable diseases among other things.

Subchapter 3, Dental Services, sets forth, among other topics, rules for dental services, routine dental care, and oral surgery.

Subchapter 4, Mental Health Services, sets forth rules for access to mental health services, staff licensure, inmate/therapist confidentiality, and records among other things.

Subchapter 5, Informed Consent to Perform Medical, Dental, or Surgical Treatment, sets forth rules for treatment refusal and medical guardianship among other things.

Subchapter 6, Pregnant Inmates, sets forth rules for care of pregnant inmates through the placement of infants.

Subchapter 7, Critical Illness or Death of Inmates, includes rules for notification of next of kin, including, but not limited to, advanced directives, burial or cremation of inmates, and distribution of personal property.

Subchapter 8, Executive Clemency and Medical Parole, sets forth, but is not limited to, rules for executive clemency, compassionate release, and medical assistance.

Subchapter 9, Blood, Tissue, and Organ Donation by Inmates, sets forth rules for blood, tissue, and organ donation.

Subchapter 10, Medical Transfer, includes rules for medical transport of inmates.

Subchapter 11, Involuntary Psychotropic Medications, sets forth, but is not limited to, rules for the use of clinically indicated psychotropic medications, the Treatment Review Committee, notification of involuntary medication hearings, and emergency treatment.

Subchapter 12, Suicide Prevention, sets forth rules for suicide prevention including, but not limited to, suicide watches and reports.

Subchapter 13, Commitment for Psychiatric Treatment, includes rules for psychiatric commitments.

Subchapter 14, Substance Use Disorder Treatment Services, sets forth, but is not limited to, rules for substance use disorder treatment services and the drug diversion program.

Subchapter 15, Keep on Person (KOP) Medication, sets forth rules for the distribution, responsibility, compliance, spot checks, and handling of keep on person (KOP) medication.

Social Impact

The rules proposed for readoption with amendments provides information regarding the health services provided to incarcerated persons while assigned to a correctional facility. The Department anticipates a positive social impact as the rules proposed for readoption with amendments are necessary for the health and well-being of incarcerated persons and the amendments reflect recent changes within the Department.

Economic Impact

Additional funding is not necessary to implement the requirements of the rules proposed for readoption with amendments. The cost of meeting and maintaining the requirements of the rules proposed for readoption with amendments is met by the Department through the established budget with funds allocated by the State and has no external economic impact.

Federal Standards Statement

The rules proposed for readoption with amendments are promulgated pursuant to the authority of the rulemaking requirements of the Department, as established at N.J.S.A. 30:1B-6 and 10. The rules proposed for readoption with amendments are not subject to any Federal statutes, requirements, or standards; therefore, a Federal standards analysis is not required.

Jobs Impact

The rules proposed for readoption with amendments will cause neither the generation of nor the loss of any jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on the agriculture industry.